

Reply to Office Action of June 18, 2004  
Amendment Dated: September 14, 2004

Appl. No.: 09/824,844  
Attorney Docket No.: CSCO-007/3484

### REMARKS

Claims 1-45 were presented for consideration in the application as originally filed. The specification is sought to be amended to fix various typographical errors, and claims 1, 4, 7, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 26, 29, 32, 35, 36, 37 and 39 are sought to be amended. The additions and amendments are believed not to introduce new subject matter, and their entry is respectfully requested. Claims 1-45 are thus presented for reconsideration, further in view of the following remarks.

At the outset, Applicants and the undersigned representative wish to thank the Examiner for the detailed examination of the application and for pointing out various errors and corrections in the specification and claims.

#### *Information disclosure statement (IDS)*

Applicants thank the Examiner for considering the IDS submitted on July 11, 2001, and returning the 1449 form indicating that the submitted references are made of record.

#### *Amendments to Specification*

In paragraph 1 of the Outstanding Office Action, the specification has been objected to, pointing out that there appears to be a typographical error in "if no CDP related messages are not received on the port" on Page 12, Lines 7-8. The paragraph has been amended to remove the double negative, and the amended relevant portion reads, "if no CDP related messages are received on the port". Entry of the amendment and withdrawal of the objection is respectfully requested.

The specification was further reviewed for other typographical errors, and corrections are sought to be made by virtue of the foregoing amendments. Entry of the amendments is respectfully requested.

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*Claim Objections*

Claims 1, 7, 12, 13, 17, 21, 26, 32, 35 and 39 were objected to because of various informalities, as summarized in paragraph 1 of the Outstanding Office Action.

5 In paragraph 3 of the Outstanding Office Action, with regard to claim 1, it was recommended that "systemis" on line 17 and "said presently layer-2 device" be respectively amended to recite "system is" and "said present layer-2 device". Claim 1 is sought to be amended accordingly. Withdrawal of the objection is respectfully requested.

10 In paragraph 4 of the Outstanding Office Action, with regard to claim 7, it was recommended that "said first layer-2" be amended to recite "said first layer-2 device". Claim 7 is sought to be amended accordingly, and withdrawal of the objection is respectfully requested.

15 In paragraph 5 of the Outstanding Office Action, with regard to claims 12, 21, 35, and 39 have been objected to observing that there appears to be a typographical error in lines 9, 9, 11 and 9 respectively. Each of the claims is sought to be amended to read, "... said second system is connected directly to said device". Withdrawal of the objections is respectfully requested.

In paragraph 6 of the Outstanding Office Action, with regard to claim 13, it was recommended that "idenfifying" be amended to recite "identifying". Claim 13 is sought to be amended accordingly, and withdrawal of the objection is respectfully requested.

20 In paragraph 7 of the Outstanding Office Action, with regard to claim 17, it was recommended that "said presently layer-2 device" be amended to recite "said present layer-2 device". Claim 17 is sought to be amended accordingly, and withdrawal of the objection is respectfully requested.

In paragraph 8 of the Outstanding Office Action, with regard to claim 26, it was

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recommended that "said presently layer-2 device" be amended to recite "said present layer-2 device". Claim 26 is sought to be amended accordingly, and withdrawal of the objection is respectfully requested.

5 In paragraph 9 of the Outstanding Office Action, with regard to claim 32, it was recommended that "said first layer-2" be amended to recite "said first layer-2 device". Claim 32 is sought to be amended accordingly, and withdrawal of the objection is respectfully requested.

*Claim Rejections - 35 U.S.C. § 112*

10 Claims 1-45 were rejected under 35 U.S.C. § 112, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, as summarized in paragraph 10 of the Outstanding Office Action.

15 In paragraph 12 of the Outstanding Office Action, claims 1 and 17 were rejected on the ground that "said system" lacks sufficient antecedent basis. In response, both claims are sought to be amended to replace "system" with "present layer-2 device", as also suggested by the Examiner. Withdrawal of the rejection with respect to both the claims is respectfully requested.

Applicants again thank the Examiner for taking the time to correctly identify the element intended to be referred to, and for continuing examination based on the correct identification in the above instance as well as several other instances.

20 In paragraph 13 of the Outstanding Office Action, claim 4 was rejected on the ground that "said source system" lacks sufficient antecedent basis. In response, the claim is sought to be amended to replace "said source system" with "said first system" in two instances, as also suggested by the Examiner. Withdrawal of the rejection with respect to the claim is respectfully requested.

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In paragraph 12 of the Outstanding Office Action, claims 1 and 17 were rejected on the ground that "said system" lacks sufficient antecedent basis. In response, both claims are sought to be amended to replace "system" with "present layer-2 device", as also suggested by the Examiner. Withdrawal of the rejection with respect to both the  
5 claims is respectfully requested.

In paragraph 13 of the Outstanding Office Action, claim 4 was rejected on the ground that "said source system" lacks sufficient antecedent basis. In response, the claim is sought to be amended to replace "said source system" with "said first system" in two instances, as also suggested by the Examiner. Withdrawal of the rejection with respect  
10 to the claim is respectfully requested.

In paragraph 14 of the Outstanding Office Action, claims 12 and 21 were rejected on the ground that "said system" lacks sufficient antecedent basis. In response, both claims are sought to be amended to replace "said system" with "said second system", as also suggested by the Examiner. Withdrawal of the rejection with respect to both the  
15 claims is respectfully requested.

In paragraph 15 of the Outstanding Office Action, claims 13, 22 and 36 were rejected on the ground that the terms "said source system" and "said destination system" lack sufficient antecedent basis. In response, both claims are sought to be amended to replace "said source system" and "said destination system" with "said first system" and  
20 "said second system", as also suggested by the Examiner. Withdrawal of the rejection with respect to all the three claims is respectfully requested.

In paragraph 16 of the Outstanding Office Action, claims 14 and 23 were rejected on the ground that "said destination device" lacks sufficient antecedent basis. In response, both claims are sought to be amended to replace "said destination device" with  
25 "said second device", as also suggested by the Examiner. Withdrawal of the rejection with respect to both the claims is respectfully requested.

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In paragraph 17 of the Outstanding Office Action, claims 17-20 was objected to since the preamble recites the term "device/system". In response, each of the claims 17-20 is sought to be amended to replace the term "device/system" with "apparatus". Withdrawal of the rejection with respect to all the four claims is respectfully requested.

5 In paragraph 18 of the Outstanding Office Action, claim 20 was rejected on the ground that "said source system" lacks sufficient antecedent basis. In response, the claim is sought to be amended to replace "said source system" with "said first system", as also suggested by the Examiner. Withdrawal of the rejection with respect to the claim is respectfully requested.

10 In paragraph 19 of the Outstanding Office Action, claim 26 was rejected on the ground that "said system" lacks sufficient antecedent basis. In response, the claim is sought to be amended to replace "said system" with "said present layer-2 device", as also suggested by the Examiner. Withdrawal of the rejection with respect to the claim is respectfully requested.

15 In paragraph 20 of the Outstanding Office Action, claim 29 was rejected on the ground that "said source system" lacks sufficient antecedent basis. In response, the claim is sought to be amended to replace "said source system" with "said first system" in two instances, as also suggested by the Examiner. Withdrawal of the rejection with respect to claim 29 is respectfully requested.

20 In paragraph 21 of the Outstanding Office Action, claim 35 was rejected on the ground that "said system" lacks sufficient antecedent basis. In response, the claim is sought to be amended to replace "said system" with "said second system", as also suggested by the Examiner. Withdrawal of the rejection with respect to the claim is respectfully requested.

25 In paragraph 22 of the Outstanding Office Action, claim 39 was rejected on the

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ground that "said system" lacks sufficient antecedent basis. In response, the claim is sought to be amended to replace "said system" with "said second system", as also suggested by the Examiner. Withdrawal of the rejection with respect to the claim is respectfully requested.

5 All the rejections based on 35 U.S.C. § 112 are thus believed to be overcome.

*Claim Rejections - 35 U.S.C. § 103*

Claims 1-3, 5-19, 21-28, 30-43, and 45 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Barrett (2003/0135644) in view of Wang *et al* (US 6,538,997).

Applicants swears behind Barrett under 37 CFR § 1.131 entitled "Affidavit or  
10 Declaration of prior invention" by submitting a declaration and an affidavit according to the procedure further outlined in MPEP § 715. In particular, 37 CFR § 1.131(b) and MPEP § 715(07)(B) indicate that the affidavit or declaration should have sufficient facts showing conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to a subsequent (actual) reduction to  
15 practice.

The effective reference date of Barrett is believed to be January 24, 2001, for reasons noted now, and as also explained in MPEP § 706.02(a). The Barrett application was filed on Mar 31, 2000 as European application number EP 00302740.6, then on January 24, 2001 as a PCT application number PCT/GB01/00283, and on September 3,  
20 2002 as a US application.

It is believed that the first filing as a European application is not considering for purposes of the reference date (see MPEP 706.02(a)), and thus the PCT filing date of January 24, 2001 is the effective reference date to be overcome by the declaration/affidavit under 37 CFR § 131.

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The declaration of Ms. Sailaja Attili and the affidavit (executed in Santa Clara County, California) of Mr. Sridhar Aswathnarayanan contain sufficient facts showing conception of the invention prior to January 24, 2001 and due diligence from prior to January 24, 2001 to a subsequent (constructive) reduction to practice as further explained  
5 below.

Point number 1 of the affidavit/declaration, along with Exhibit A, establishes that the invention was conceived prior to January 24, 2001.

The subject patent application was filed on April 2, 2001, and thus the invention is deemed to be constructively reduced to practice as of April 2, 2001.

10 Points 2-5 of the declaration, along with the exhibits A-C, clearly establish that due diligence was exercised prior to January 24, 2001 until the application filing date of April 2, 2001.

Accordingly, it is respectfully asserted that the Barrett reference is not effective prior art under 35 U.S.C. § 103 as against the subject patent application. Withdrawal of  
15 the outstanding rejections under 35 U.S.C. § 103 is respectfully requested.

### *Conclusion*

Thus, all the objections and rejections are believed to be overcome, at least in view of the above amendments and remarks, and that all the presented claims are in condition for allowance over the art of record. The Examiner is invited to telephone the

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undersigned representative if it is believed that an interview might be useful for any reason.

Respectfully submitted,



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